

PATENT

Serial No. 10/596,183

Amendment in Reply to Office Action of June 9, 2009

REMARKS

This Amendment is being filed in response to the Office Action mailed on June 9, 2009, which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3 and 6-12 are pending in this application, where claims 4-5 have been canceled without prejudice, and claims 9-12 have been currently added. Claims 1, 2 and 6 are independent. Applicant reserves the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the current Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

By means of the present amendment, claims 1-3, 6 and 8 have been amended for non-statutory reasons, such as for better form including beginning the dependent claims with 'The' instead of 'A',

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and deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Such amendments to claims 1-3, 6 and 8 were not made in order to address issues of patentability and Applicant respectfully reserves all rights under the Doctrine of Equivalents.

In the Office Action, the Examiner objected to the specification for lacking headings. Applicant respectfully declines to add the headings as they are not required in accordance with MPEP §608.01(a), and could be inappropriately used in interpreting the specification. Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, claims 4-5 are rejected under 35 U.S.C. §112, second paragraph. Applicant respectfully traverses this rejection. However, in the interest of advancing prosecution, claims 4-5 have been canceled without prejudice. The cancellation of claims 4-5 renders moot this rejection with regard to these claims.

In the Office Action, claims 1-8 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 5,367,953 (Yamashita) in view of U.S.

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Patent No. 7,520,220 (Baek). Applicant respectfully traverses and submits that claims 1-3 and 6-12 are patentable over Yamashita and Baek for at least the following reasons.

At the outset, it is respectfully submitted that Baek is not prior art to the present application. The present application was PCT filed on December 7, 2004 as PCT/IB2004/052691, which designates the U.S. and is published in English as WO 2005/056294, as well as claims the benefit of a British Patent Application No. GB 0328459.3, filed on December 9, 2003, which is thus the effective filing date of the present application. Baek has a U.S. Filing Date of September 7, 2004 which is the effective filing date for prior art purposes.

As the effective filing date of the present application of December 9, 2003 is before the Baek effective filing date of September 7, 2004, Baek is not available as prior art with regard to the present application.

Further, as correctly noted on pages 4, 5 and 6 of the Office Action, Yamashita does not disclose or suggest clichés or an array of subbeds, as recited in independent claims 1-2 and 6.

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Accordingly, it is respectfully submitted that independent claims 1-2 and 6 are allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 3-5 and 7-8 should also be allowed at least based on their dependence from independent claims 1 and 6 as well as their individually patentable elements.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded. And in particular, no Official Notices are conceded.

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In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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